

Application No.: 10/527,390
Filing Date: October 17, 2005

REMARKS

Amendments to the Claims

Claims 1-3, 15, 18, 19 and 30 have been canceled. Claims 4, 24 and 25 have been amended to further clarify the invention. No new matter has been added to the claims. In the outstanding Office Action, Claims 4-18, 20-30, and 31-33 are pending. Reconsideration and allowance of Claims 4-18, 20-30, and 31-33 in light of the present remarks is respectfully requested.

Claim Objections under MPEP § 608.01(n)

The Examiner appears to object to Claims 18, 19 and 30 because these Claims refer back to independent Claim 1 with intervening independent Claim 4 between Claim 1 and Claims 18, 19 and 30. Applicant has canceled Claims 18, 19 and 30 rendering this objection moot.

Claim Rejections under 35 USC § 112

The Examiner objected to Claims 15, 24, 25 and 30 for lack of insufficient antecedent basis. Applicant has canceled Claims 15 and 30 and amended Claims 24 and 25 to recite sufficient antecedent basis. Applicant respectfully requests withdrawal of these rejections under 35 USC § 112.

Discussion of Rejection of Claims 1-3, 18, and 30 under 35 USC § 102

The Examiner rejected Claims 1-3, 18, 19 and 30 under 35 USC § 102 as being anticipated by Broome et al. (hereinafter "Broome," US 2002/0082639 A1). Applicant has canceled Claims 1-3, 18, 19 and 30 without prejudice rendering this rejection moot and Applicant reserves the right to seek protection for the subject matter of canceled Claims 1-3, 18, 19 and 30 in the future.

Discussion of Rejection of Claims 4-17, 20, 22-29 and 32 under 35 USC § 102

The Examiner rejected Claims 4-17, 20, 22-29 and 32 under 35 USC § 102 as being anticipated by Kusleika et al. (hereinafter "Kusleika," US 2002/0169474 A1). Claim 4 is the only independent claim for the claim group recited above and all other claims depend from Claim 4.

Claim 4 has been amended to recite an extraction device (*See for example, Figures 14-19 of the present application*) having at least one wire-like flexible adjustment element (21) that *extends along an inner or outer surface of the basket (20) from a proximal region of the basket to a distal region of the basket*. This is significant for at least two important reasons.

First, arranging the adjustment element(s) in this manner allows the operator of the extraction device better control over the shape and orientation of the extraction device, as can be seen in Fig. 16, for example. By actuating the adjustment element(s) (21), the operator can further expand the basket causing the vessel (or body cavity) to increase in diameter allowing the object to slide into the opening of the basket. This is very desirable, especially in cases where the object is stuck or partially lodged inside the body cavity. Once the object is drawn into the basket, the operator may then loosen the adjusting element(s) such that the distal area of the basket contracts, trapping the object within the basket for withdrawal from the body cavity.

Another important reason for arranging the adjustment element(s) in this manner is that the adjustment element(s) do not protrude in front of the basket opening and thus will not hinder an object from entering the basket.

In contrast, Kusleika does not disclose an adjustment element(s) that extends along an inner or outer surface of the basket from a proximal region of the basket to a distal region of the basket. Rather, Kusleika discloses a basket with tethers (290) that are fixed to the front edge of the basket with the tethers protruding in front of the basket opening. The tether configuration disclosed in Kusleika is undesirable because the tethers will hinder objects from entering the basket and limit an operator's control over the shape and orientation of the basket thereby adversely affecting the operator's ability to extract objects from the body cavity.

For at least these reasons, Applicant respectfully submits that independent Claim 4 is not anticipated by Kusleika and is in condition for allowance. Therefore, withdrawal of the rejection is respectfully requested.

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Furthermore, for reasons similar to those described above with reference to Claim 4, Applicant respectfully submits that Claims 5-17, 20-29 and 31-33, being dependent on Claim 4 are also in condition for allowance.

Discussion of Rejection of Claims 19, 21, 31 and 32 under 35 USC § 103

The Examiner rejected Claim 19 under 35 USC § 103 as being obvious over Broome et al. (US 2002/0082639 A1). Applicant has canceled Claims 19 without prejudice rendering this rejection moot and Applicant reserves the right to seek claim protection for canceled Claim 19 in the future.

The Examiner also rejected Claims 21, 31 and 32 under 35 USC § 103. However, for reasons similar to those described above with reference to amended Claim 4, Applicant respectfully submits that Claims 21, 31 and 32, being dependent on Claim 4 are also in condition for allowance.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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